Remarks

A brief description of prior art cited as relevant by the examiner has been added to the specification. The claims have been re-written in order to more specifically describe the invention and to correct minor errors. Appropriate changes have also been made to the abstract. Re-examination and reconsideration of the application as amended is requested.

Applicant is aware that 35 U.S.C. section 132 prohibits any amendment to an application that adds new matter to the disclosure of the invention. Since the addition of a brief description of prior art cited as relevant by the examiner has been added to the specification this does nothing to add new matter to the disclosure of the invention.

The examiner objected to claim 5 because the word "eleminate" is mistyped. This has been corrected in the new claims.

The examiner rejected claims 4 and 7-8 because the term "balcony" is not described in the specification. This has been corrected in the new claims.

The examiner rejected claims 6, 8-10 under 35 U.S.C. 102(b) as being anticipated by Graves, et al in US Patent 6,407,798 B2. This rejection is submitted to have been overcome by cancellation of the rejected claims and the addition of new claims that more specifically describe the invention so as for Graves, et al to not have anticipated the present invention.

Referring to the MPEP section 2131 states

A claim is anticipated only if each and every element as set forth in the claim is found either expressly or

inherently described, in a single prior art reference. Verdegaal Bros v Union Oil Of California 814 F.2d 628, 631 2 U.S.P.Q.2d 1051 1053 (Fed.Cir. 1987) The identical invention must be shown in as complete detail as is contained in the claim. Richardson v Suzuki Motor Co 868 F.2d 1226, 1236 9 U.S.P.Q.2d 1913 1920 (Fed.Cir. 1989)

It is submitted that the new claims describe an invention that is far afield from that of Graves, et al. The disclosure of Graves, et al is for a single theater with a plurality of screens in the theater for purposes of either showing a regular format motion picture or for showing a large format motion picture in the single theater. In order to show either formatted motion picture the screen in the single theater is changed accordingly. This teaches away from the present invention because the present invention is for theaters with fixed screens as opposed to one single theater with changeable screens.

Further Graves, et al does not provide for separate facilities and viewing levels for separate classes of patrons in that there is no separate entrance and exit for separate viewing levels and no separate concession facility for two classes of patrons.

The examiner rejected claims 1-5 10 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,407,798 B2 Graves, et al, in view of U.S. Patent Number 6,164,018 Runge, et al.

The Graves, et al invention is for a theater that has changeable screens for purposes of showing different types of

motion picture formats. There is no separation of viewing levels for different classes of patrons and only one single theater is described. This teaches away from the present invention in that the present invention is for purposes of showing different formatted motion pictures in different theaters. Graves, et al recognizes that different theater facilities are needed for different formats of motion pictures and suggest that the solution to this need is to provide for changeable screens in a single theater. The present invention also solves the need for different theater facilities for different formats of motion pictures but suggests that multiple theaters not multiple screens best answers this need.

Runge, et al, discloses a building with multiple theaters of a like kind located in the building. The theaters are for showing of a single kind of motion picture format and have a single mezzanine area with a single concession facility. Runge, et al recognizes the need for savings of the cost of construction of a theatrical structure and suggests several theaters in one single building would save on these costs. The present invention also solves this need but additionally provides for segregation of facilities for different classes of patrons and for the showing of different formatted motion pictures in different theaters in one single building.

Referring to MPEP section 2144.06 it is stated:

> In order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant's disclosure or the mere fact that

the components at issue are functional or mechanical equivalents. In Re: Ruff 256 F.2d 590, 118 U.S.P.Q. 340 (C.C.P.A. 1958)

Also Smith v. Hayashi 209 U.S.P.Q. 754 (Bd.ofPat.Int. 1980)wherein the court held that components which are functionally or mechanically equivalent are not necessarily obvious in view of one another.

In the present case combining the two cited references would not produce the present invention in any event in that the invention of Graves, et al, teaches away from the present invention and all of the elements of the present invention are not to be found in the two cited references.

Also the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In Re: Vaeck 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed.Cir. 1991)

Nowhere in the prior art is there any suggestion for combining the two cited references. Again the teaching away from the present invention by Graves, et al would preclude the combining of the two cited references in any event.

Clearly the present invention is the first to recognize that it is desirable to combine multiple theaters in one building and at the same time provide for the showing of different formatted motion pictures in different theaters. The present invention goes beyond this and also provides for completely separate facilities for different classes of patrons a feature not found in any known prior art.

Clearly the results produced by the present invention have

long been sought in the prior art but prior to this invention have not been produced.

After amendment it is submitted that the claims of this invention are no longer anticipated by Graves, et al and are not obvious in view of Runge, et al.

For all of the foregoing reasons it is submitted that the claims are in condition for allowance. Reconsideration of the rejections and objections is requested. Allowance of claims 11 through 15 at an early date is requested.

Respectfully submitted.

DATED: JUN 2 0 2003

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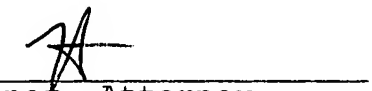

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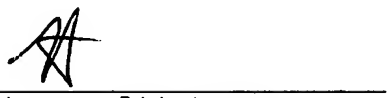

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